

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LEE VANCE THOMAS III, #11371-042

*

Petitioner,

*

v.

*

2:06cv 74-MEF

~~2:05-CV-363-MEF~~

UNITED STATES OF AMERICA

*

Respondent.

*

ORDER

On January 23, 2006 Petitioner filed a pleading styled as a *Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241* in the above captioned case. (Doc. No. 9.) The undersigned notes that a final judgment in this case was entered on May 27, 2005. The judgment dismissed this case without prejudice in order to afford Petitioner an opportunity to exhaust available administrative remedies. (See Doc. No. 8.)

In light of the foregoing, the court finds that Petitioner's January 23, 2006 application for habeas relief is not properly filed in this case, which was closed eight months ago, and the Clerk of Court shall be directed to strike the pleading from the docket. The Clerk shall further be directed to file Petitioner's January 23 pleading as a new civil action and shall open a new file to effect the court's directive.

Accordingly, the Clerk of Court is hereby DIRECTED to:

1. STRIKE Petitioner's *Petition for Writ of Habeas Corpus Pursuant [to] 28 U.S.C. § 2241* (Doc. No. 9) from the docket in the above-captioned case;

2. Open a separate civil action and file Petitioner's January 23, 2006 habeas corpus petition in the newly opened file;

3. Assign the newly opened case to the Magistrate Judge and District Judge to which the instant cause of action is assigned;

4. Place a copy of this order in Civil Action No. 2:05-CV-363-MEF; and

5. Refer the new case to the appropriate Magistrate Judge for further proceedings upon completion of the foregoing directives.

DONE, this 27th day of January, 2006.

/s/ Susan Russ Walker

SUSAN RUSS WALKER

UNITED STATES MAGISTRATE JUDGE